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§ 10.888 Issuance of negative origin determinations.

If, as a result of an origin verification initiated under this subpart, CBP determines that a claim for preferential tariff treatment made under § 10.863 of this subpart should be denied, it will issue a determination in writing or via an authorized electronic data interchange system to the importer that sets forth the following:

(a) A description of the good that was the subject of the verification together with the identifying numbers and dates of the export and import documents pertaining to the good;

(b) A statement setting forth the findings of fact made in connection with the verification and upon which the determination is based; and

(c) With specific reference to the rules applicable to originating goods as set forth in General Note 31, HTSUS, and in §§ 10.863 through 10.886 of this subpart, the legal basis for the determination.

PENALTIES

§ 10.889 Violations relating to the OFTA.

All criminal, civil, or administrative penalties which may be imposed upon importers or other parties for violations of the U.S. customs or related laws or regulations will also apply to importations subject to the OFTA.

GOODS RETURNED AFTER REPAIR OR ALTERATION

§ 10.890 Goods re-entered after repair or alteration in Oman.

(a) *General.* This section sets forth the rules that apply for purposes of obtaining duty-free treatment on goods returned after repair or alteration in Oman as provided for in subheadings 9802.00.40 and 9802.00.50, HTSUS. Goods returned after having been repaired or altered in Oman, whether or not pursuant to a warranty, are eligible for duty-free treatment, provided that the requirements of this section are met. For purposes of this section, “repairs or alterations” means restoration, renovation, cleaning, re-sterilizing, or other treatment which does not destroy the essential characteristics of,

or create a new or commercially different good from, the good exported from the United States.

(b) *Goods not eligible for treatment.* The duty-free treatment referred to in paragraph (a) of this section will not apply to goods which, in their condition as exported from the United States to Oman, are incomplete for their intended use and for which the processing operation performed in Oman constitutes an operation that is performed as a matter of course in the preparation or manufacture of finished goods.

(c) *Documentation.* The provisions of paragraphs (a), (b), and (c) of § 10.8 of this part, relating to the documentary requirements for goods entered under subheading 9802.00.40 or 9802.00.50, HTSUS, will apply in connection with the entry of goods which are returned from Oman after having been exported for repairs or alterations and which are claimed to be duty free.

Subpart Q—United States-Peru Trade Promotion Agreement

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GENERAL PROVISIONS

§ 10.901 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported and exported goods under the United States-Peru Trade Promotion Agreement (the PTPA) signed on April 12, 2006, and under the United States-Peru Trade Promotion Agreement Implementation Act (the Act; Pub. L. 110–138, 121 Stat. 1455 (19 U.S.C. 3805 note). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the PTPA and the Act are contained in Parts 24, 162, and 163 of this chapter.

§ 10.902 General definitions.

As used in this subpart, the following terms will have the meanings indicated

unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *Claim for preferential tariff treatment*. “Claim for preferential tariff treatment” means a claim that a good is entitled to the duty rate applicable under the PTPA to an originating good and to an exemption from the merchandise processing fee;

(b) *Claim of origin*. “Claim of origin” means a claim that a textile or apparel good is an originating good or satisfies the non-preferential rules of origin of a Party;

(c) *Customs authority*. “Customs authority” means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;

(d) *Customs duty*. “Customs duty” includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but, for purposes of implementing the PTPA, does not include any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994 in respect of like, directly competitive, or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to a Party’s domestic law; or

(3) Fee or other charge in connection with importation;

(e) *Customs Valuation Agreement*. “Customs Valuation Agreement” means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, which is part of the WTO Agreement;

(f) *Days*. “Days” means calendar days;

(g) *Enterprise*. “Enterprise” means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

(h) *GATT 1994*. “GATT 1994” means the *General Agreement on Tariffs and Trade 1994*, which is part of the *WTO Agreement*;

(i) *Harmonized System*. “Harmonized System” means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(j) *Heading*. “Heading” means the first four digits in the tariff classification number under the Harmonized System;

(k) *HTSUS*. “HTSUS” means the *Harmonized Tariff Schedule of the United States* as promulgated by the U.S. International Trade Commission;

(l) *Identical goods*. “Identical goods” means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods;

(m) *Indirect material*. “Indirect material” means a good used in the production, testing, or inspection of another good in the territory of one or both of the Parties but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of another good in the territory of one or both of the Parties, including:

(1) Fuel and energy;

(2) Tools, dies, and molds;

(3) Spare parts and materials used in the maintenance of equipment or buildings;

(4) Lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

(5) Gloves, glasses, footwear, clothing, safety equipment, and supplies;

(6) Equipment, devices, and supplies used for testing or inspecting the good;

(7) Catalysts and solvents; and

(8) Any other goods that are not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production;

(n) *Originating*. “Originating” means qualifying for preferential tariff treatment under the rules of origin set out

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in Chapter Four and Article 3.3 of the PTPA, and General Note 32, HTSUS;

(o) *Party*. “Party” means the United States or Peru;

(p) *Person*. “Person” means a natural person or an enterprise;

(q) *Preferential tariff treatment*. “Preferential tariff treatment” means the duty rate applicable under the PTPA to an originating good, and an exemption from the merchandise processing fee;

(r) *Subheading*. “Subheading” means the first six digits in the tariff classification number under the Harmonized System;

(s) *Textile or apparel good*. “Textile or apparel good” means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as “the ATC”), which is part of the WTO Agreement, except for those goods listed in Annex 3-C of the PTPA;

(t) *Territory*. “Territory” means:

(1) With respect to Peru, the continental territory, the islands, the maritime areas and the air space above them, in which Peru exercises sovereignty and jurisdiction or sovereign rights in accordance with its domestic law and international law;

(2) With respect to the United States:

(i) The customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;

(ii) The foreign trade zones located in the United States and Puerto Rico; and

(iii) Any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources;

(u) *WTO*. “WTO” means the World Trade Organization; and

(v) *WTO Agreement*. “WTO Agreement” means the *Marrakesh Agreement Establishing the World Trade Organization* of April 15, 1994.

IMPORT REQUIREMENTS

§ 10.903 Filing of claim for preferential tariff treatment upon importation.

(a) *Basis of claim*. An importer may make a claim for PTPA preferential tariff treatment, including an exemp-

tion from the merchandise processing fee, based on:

(1) A certification, as specified in § 10.904 of this subpart, that is prepared by the importer, exporter, or producer of the good; or

(2) The importer’s knowledge that the good is an originating good, including reasonable reliance on information in the importer’s possession that the good is an originating good.

(b) *Making a claim*. The claim is made by including on the entry summary, or equivalent documentation, the letters “PE” as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system.

(c) *Corrected claim*. If, after making the claim specified in paragraph (b) of this section, the importer has reason to believe that the claim is based on inaccurate information or is otherwise invalid, the importer must, within 30 calendar days after the date of discovery of the error, correct the claim and pay any duties that may be due. The importer must submit a statement either in writing or via an authorized electronic data interchange system to the CBP office where the original claim was filed specifying the correction (*see* §§ 10.931 and 10.933 of this subpart).

§ 10.904 Certification.

(a) *General*. An importer who makes a claim under § 10.903(b) of this subpart based on a certification by the importer, exporter, or producer that the good is originating must submit, at the request of the port director, a copy of the certification. The certification:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must be in the possession of the importer at the time the claim for preferential tariff treatment is made if the certification forms the basis for the claim;

(3) Must include the following information:

(i) The legal name, address, telephone, and email address (if any) of the